IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3740 OF 2006

Omnarayan Rameshchandra Ojha Applicant
versus
Senior Police Inspector & ors. Respondents

R.S.Thakur for applicant.
R.Y.Mirza, APP for respondents.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 19th October 2006

PC :

1. When this application was placed before me my attention is invited by Shri Mirza, learned APP to the finding of the Trial Court and more particularly in paras 6 and 7 thereof.

2. Shri Thakur does not dispute that the provisions of Chapter-XXV of Cr.P.C. would be attracted once the plea is that the accused is of unsound mind. He states that Chapter-XXV contain provisions for holding an inquiry into unsoundness of the accused and elaborate provisions are made in the Code so as to enable the concerned Magistrate to render a finding in

that behalf. He does not dispute that such an inquiry is not held. However, he seeks to rely upon certificate of one private Psychiatrist so also report of Mental Health Centre, at Thane.

3. In my view, it is not necessary to consider the application for enlarging the applicant on bail at this stage when interest of justice would be served if an inquiry is ordered as contemplated by Sections 329 and 330 of Cr.P.C..

4. Hence, following order :-

A) The applicant is referred to the concerned Magistrate who has powers to take cognizance of cases arising within jurisdiction of Nhava-Sheva Police Station. The prosecution is directed to place before the learned Magistrate all such papers as are necessary to enable him to conduct the inquiry including producing the accused, if necessary, and so directed;

B) Upon preliminary steps being taken, the Magistrate shall commence such inquiry and endeavour to complete it within a period of three months from the date the material is made available.

5. Shri Thakur states that to expedite the entire process the applicant would apply before the concerned Magistrate so that the Magistrate shall commence the inquiry. Needless to state that if it is so open for the applicant to apply, he may do so and the Magistrate then to proceed after taking on record such documents as are necessary and produced by both sides. Needless to further state that the concerned Police Station shall co-operate in the expeditious conclusion of the inquiry. Application disposed of.

(S.C.DHARMADHIKARI, J.)